IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35911

STATE OF IDAHO,	2009 Unpublished Opinion No. 547
Plaintiff-Respondent,	Filed: July 23, 2009
v.	Stephen W. Kenyon, Clerk
JOHN RICHARDSON, JR.,	THIS IS AN UNPUBLISHED OPINION AND SHALL NOT BE CITED AS AUTHORITY
Defendant-Appellant.	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Minidoka County. Hon. R. Barry Wood, District Judge.

Judgment of conviction and concurrent, unified sentences of fifteen years, with ten years determinate, for vehicular manslaughter, and fifteen years, with five years determinate, for each of three counts of aggravated driving under the influence of alcohol and/or drugs, affirmed; order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before PERRY, Judge, GUTIERREZ, Judge
and GRATTON, Judge

PER CURIAM

John Richardson, Jr. was charged with vehicular manslaughter, I.C. § 18-4006(3)(a) and/or 3(b), and three counts of aggravated driving under the influence of alcohol and/or drugs (DUI), I.C. § 18-8006. Pursuant to a plea agreement, Richardson pled guilty to the charges and the state agreed to a sentencing recommendation. The district court sentenced Richardson to concurrent unified terms of fifteen years, with ten years determinate, for vehicular manslaughter and to fifteen years, with five years determinate, for each of the three counts of aggravated DUI. Richardson filed an Idaho Criminal Rule 35 motion for reduction of sentences and requested that

his sentences run concurrently with a sentence in an unrelated case. The district court granted in part and denied in part Richardson's Rule 35 motion. The district court denied his request for sentence reduction and granted his request that his sentences run concurrently with his sentence in the unrelated case. Richardson appeals, contending that the district court abused its discretion by imposing excessive sentences and by denying his motion for reduction of sentences.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

A Rule 35 motion is a request for leniency which is addressed to the sound discretion of the sentencing court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing the sentences or by denying Richardson's Rule 35 motion for sentence reduction. Accordingly, Richardson's judgment of conviction and sentences are affirmed, as is the denial of his motion for reduction of sentences.